BellSouth Corporation
Legal Department
Suite 900
1133-21st Street, NW
Washington, DC 20036-3351

jonathan.banks@bellsouth.com

Jonathan Banks
General Attorney

202 463 4182
Fax 202 463 4195

August 6, 2002

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Re: BellSouth Transmittal No. 657
Verizon Tariff Transmittal 226
WC Docket 02-80
Verizon July 24, 2002 Petition for Emergency Declaratory and Other Relief

Dear Ms. Dortch:

Attached please find a letter that BellSouth sent to Chairman Michael K. Powell on August 5, 2002. This letter was in response to Allegiance's July 29, 2002 letter to the Chairman.

In accordance with Commission rules, I am filing copies of this notice and attachment and request that they be included in the record of the proceeding identified above.

Sincerely,

Jonathan Banks
General Attorney

cc: The Honorable Michael K. Powell
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

herschel.abbott@bellsouth.com

Herschel L. Abbott, Jr.
Vice President -
Governmental Affairs

202 463 4101
Fax 202 463 4141

August 5, 2002

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: BellSouth Transmittal No. 657
Verizon Tariff Transmittal 226
WC Docket No. 02-80
Verizon July 24, 2002 Petition for Emergency Declaratory and Other Relief

Dear Chairman Powell:

The telecommunications industry has lost nearly 500,000 jobs and about $2 trillion in market value over the last two years. Recent bankruptcy filings have further increased the pressure on the companies in the industry that are still solvent. The current state of the industry requires Commission leadership to implement even-handed policies that will allow carriers to take prudent and commercially reasonable steps to protect their networks and customers from nonpayment by distressed carriers. Without such leadership, the spreading financial distress will threaten the integrity and reliability of the entire telecommunications infrastructure.

Every carrier in the industry is subject to the current financial realities, and every carrier needs to take prudent steps to manage financial risk. The overheated rhetoric in Allegiance's July 29, 2002, letter concerning BellSouth's recent efforts to obtain commercially reasonable and prudent security deposit tariff language is counterproductive to the broad efforts necessary to address the industry's financial distress and to maintain the integrity and security of the nation's telecommunications networks. Carriers are interconnected not just physically, but also financially. The Commission should be encouraging carriers to take prudent steps to minimize the possibility that fiscally irresponsible carriers may drag others into financial peril. Such steps are likely to prove vital to restoring the telecommunications sector to health.

BellSouth's tariff proposal

BellSouth has proposed to incorporate language into certain of its tariffs that would allow it to examine the creditworthiness of its carrier customers when determining the appropriate level of deposits to require. Although Allegiance criticizes BellSouth's proposal and suggests that payment history should be the sole criterion, it is a normal and prudent commercial practice to take into account the creditworthiness of customers. For example, the proposed language is similar to language in tariffs filed by long distance carriers.

Under the current tariffs, BellSouth may not take creditworthiness into account to when determining deposits. This effectively requires BellSouth to hold its head in the financial sand and hope for the best. It is no service to BellSouth's customers or its ability to maintain its network to prevent it from taking reasonable and prudent steps to minimize the effects of nonpayment. Allegiance would keep the door open for carrier customers to run up large bills before declaring bankruptcy, saddling BellSouth and its network with unpaid debts while preventing BellSouth from protecting itself by requiring reasonable deposits. BellSouth cannot afford to operate its network at the necessary levels of service and security and invest in the network of the future, including the upgrades necessary to compete with cable modems, while playing banker to fiscally irresponsible carriers.

Allegiance's Proposal To Avoid Debt Involved In Customer Conversions

Allegiance holds up BellSouth's work with one bankrupt carrier to transition customers as being "Exhibit A" for anticompetitive self-dealing. BellSouth worked carefully with the carrier in question to develop and implement procedures consistent with this Commission's rules, state commission rules and the requirements of the bankruptcy court for transitioning customers without loss of service. Using those procedures as a guide, BellSouth has also worked successfully to transition customers to CLEC networks. Allegiance's suggestion that competitive carriers do not have an opportunity equal to BellSouth's to compete for the customers of distressed carriers is simply wrong.

The ground for Allegiance's complaint seems to be that BellSouth attempts to collect monies owed to it for the use of its facilities, primarily unbundled network elements (UNEs), before transitioning facilities to a new carrier customer. The prices for those facilities are set by state commissions in accordance with the FCC's TELRIC rules and the speed and quality of the installation and maintenance of those facilities is governed by very detailed state standards. BellSouth provides those facilities according to the state-set standards and prices, and is simply exercising the rights accorded to it in bankruptcy and under its carrier agreements to collect for the facilities and services it provides. Generally, BellSouth negotiates with the carriers seeking transfers in these situations and reaches a mutually agreeable resolution. Allegiance wants BellSouth to provide it all the benefits of a seamless transfer of facilities and the customer revenues associated with them while avoiding every debt owed. While such a one-sided rule would create obvious benefits for some, the incentives to run up debts that such a rule would create would further destabilize the industry.

It is not in the best interests of the industry or telecommunications consumers to allow financially distressed carriers to drag down others. The Commission must allow carriers to take prudent and commercially reasonable steps to protect their networks and customers from the spreading financial distress.

Sincerely,

Herschel L. Abbott, Jr.

cc: The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin